



**Homeland  
Security**

*Privacy Office, Mail Stop 0655*

October 10, 2012

**SENT VIA EMAIL TO: 84-26711576@REQUESTS.MUCKROCK.COM**

Mr. Jason Smathers  
MuckRock.com  
Dept MR 84  
PO Box 55819  
Boston, MA 02205-5819

Re: **2012-HQFO-00072**

Dear Mr. Smathers:

This acknowledges receipt in the Department of Homeland Security (DHS) Privacy Office of your Freedom of Information Act (FOIA) request that you addressed to the U.S. Immigration and Customs Enforcement, seeking all correspondence, memoranda, documents, reports, records, statements, audits, lists of names, applications, diskettes, letter, calendar or dairy logs, facsimile logs, call sheets, tape recordings, video/movie recordings, notes, examinations, opinions, folder files, books, manuals, pamphlets, forms, drawings, charts, photographs, electronic mail and other documents and things that refer or relate to all communication between U.S. Department of Homeland Security and the Federal Government of Mexico regarding the Arizona immigration law (SB1070). Your request was received in this office on September 26, 2012.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, the Department processes FOIA requests according to their order of receipt. Although DHS' goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10-day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, DHS will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6)(B). If you care to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner.

As it relates to your fee waiver request, I have reviewed your letter thoroughly and have determined that you have not presented a convincing argument that MuckRock is entitled to a blanket waiver of fees.

The DHS FOIA Regulations, 6 CFR § 5.11(k)(2), set forth six factors to examine in determining whether the applicable legal standard for a fee waiver has been met. We will consider these factors in our evaluation of your request for a fee waiver:

- (1) Whether the subject of the requested records concerns “the operations or activities of the government;”
- (2) Whether the disclosure is “likely to contribute” to an understanding of government operations or activities;
- (3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor or a narrow segment of interested persons;
- (4) Whether the contribution to public understanding of government operations or activities will be "significant;"
- (5) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and
- (6) Whether the magnitude of any identified commercial interest to the requestor is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requestor.

As a requester, you bear the burden under the FOIA of showing that the fee waiver requirements have been met. Based on my review of your August 15, 2012, letter and for the reasons stated herein, I have determined that your fee waiver request is deficient. It does not adequately describe how or even whether the contribution to the public understanding of this topic would be “significant.” While factors 1, 5 and 6 have been met, your organization did not adequately address factors 2-4 in this fee waiver request. Simply rephrasing the aforementioned factors as affirmative statements in your request does not provide this Department with enough information to grant your request for a waiver of fees. Since your request for a fee waiver has failed to satisfy each of the required factors, I am denying your fee waiver request.

Provisions of the Act allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS Interim FOIA regulations as they apply to media requestors. As a media requestor you will be charged 10-cents a page for duplication, although the first 100 pages are free. We will construe the submission of your request as an agreement to pay up to \$25.00. You will be contacted before any further fees are accrued

You have the right to appeal the determination to deny your fee waiver request. Should you wish to do so, you must **send your appeal within 60 days of the date of this letter** to: Associate General Counsel (General Law), U.S. Department of Homeland Security, Washington, D.C. 20528, following the procedures outlined in Subpart A, Section 5.9, of the DHS Regulations. Your envelope and letter should be marked “Freedom of Information Act Appeal.” The implementing Department regulations establish the criteria under which the FOIA is administered. Copies of the FOIA and regulations are available at [www.DHS.gov](http://www.DHS.gov).

Your request has been assigned reference number **2013-HQFO-00072**. Please refer to this identifier in any future correspondence. If you have any questions, or would like to discuss this matter, please feel free to contact this office at 1- 866-431-0486 or 202-343-1743.

Sincerely,

A handwritten signature in black ink, reading "Angela Washington". The signature is written in a cursive, flowing style.

Angela Washington  
FOIA Program Specialist